

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRANDON CHE LEE,

Plaintiff,

v.

TO BE NAMED,

Defendant.

2:16-cv-01971-APG-CWH

ORDER

I. DISCUSSION

On August 17, 2016, Plaintiff, a prisoner in the custody of the U.S. Bureau of Prisons ("BOP"), submitted a civil rights complaint pursuant to *Bivens*. (ECF No. 1-1). Plaintiff did not file an application to proceed *in forma pauperis*. (See ECF No. 1). On August 24, 2016, this Court issued an order directing Plaintiff, within thirty (30) days of that order, to: (1) file a fully complete application to proceed *in forma pauperis*, on the correct form with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) pay the full \$400 fee for filing a civil action (which included the \$350 filing fee and the \$50 administrative fee). (ECF No. 3 at 2). On September 20, 2016, Plaintiff stated that he was having difficulties obtaining a copy of his prison trust account. (ECF No. 7-1 at 1). Plaintiff is currently incarcerated at the U.S. Penitentiary in Atlanta, Georgia. (*Id.*).

Pursuant to 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, Plaintiff must complete an application to proceed *in forma pauperis* and attach both an inmate account statement for the past six months and a properly executed financial certificate. Plaintiff has not submitted an application, a properly executed financial certificate, or an inmate account statement to this Court. Plaintiff will be granted an extension of time to file of his

1 application to proceed *in forma pauperis*, or in the alternative, pay the full filing fee for this
2 action. If Plaintiff chooses to file an application to proceed *in forma pauperis*, he must file a
3 fully complete application to proceed *in forma pauperis*.

4 If, however, Plaintiff continues to have difficulty obtaining a financial certificate and
5 an inmate account statement from prison officials, Plaintiff shall file an affidavit in this case
6 detailing when he requested the documents, who he spoke to about the status of the
7 documents, who he followed up with after he did not receive the documents, and their
8 responses. In other words, if Plaintiff is unable to acquire the necessary documents from
9 prison officials, he must provide the Court with an affidavit that demonstrates that he has
10 done all that he could to acquire the documents by the Court's deadline. Plaintiff's affidavit
11 should include dates of his requests, dates of his follow-up requests, names of the prison
12 officials that he spoke to about the matter, and their responses. If Plaintiff's affidavit
13 demonstrates that he has done all that was possible to acquire the documents, the Court
14 will consider his application to proceed *in forma pauperis* complete.¹

15 II. CONCLUSION

16 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court SHALL
17 SEND Plaintiff the approved form application to proceed *in forma pauperis* by a prisoner,
18 as well as the document entitled information and instructions for filing an *in forma pauperis*
19 application.

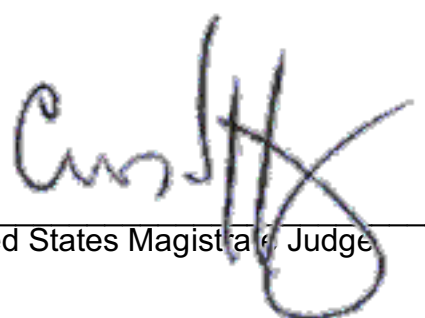
20 IT IS FURTHER ORDERED that **on or before Friday, November 4, 2016**, Plaintiff
21 shall either: (1) file a fully complete application to proceed *in forma pauperis*, on the correct
22 form with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) file
23 an affidavit detailing the efforts he took to acquire a financial certificate and an inmate
24 account statement from prison officials. If Plaintiff chooses to file an affidavit, his affidavit
25 must describe the actions he took to acquire the documents through Friday, October 28,
26 2016. Plaintiff shall not file an affidavit before that date. Additionally, Plaintiff must submit

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28 ¹ Plaintiff must still submit an application to proceed *in forma pauperis* with his affidavit.

1 an application to proceed *in forma pauperis* to this Court even if he is unable to acquire the
2 necessary attachments from prison officials.

3 IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order,
4 dismissal of this action may result.

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6 DATED: October 4, 2016.

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United States Magistrate Judge